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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,202	08/06/2001	John E. McCall	00163.1415US01	8895
23552	7590	09/03/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			DIXON, THOMAS A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/923,202

**Applicant(s)**

MCCALL, JOHN E.

**Examiner**

Thomas A. Dixon

**Art Unit**

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 43-69 is/are pending in the application.
- 4a) Of the above claim(s) 27-42 and 70-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Applicant's IDS of 23 June 2004 has been considered and in light of the Koropitzer et al ('4,694,323) reference, the allowability indicated in the previous action is withdrawn.
2. Claims Directed to an Apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987).

Thus the structural limitations of claim 14, including a data collector and an advisory module receiving the collected information are disclosed in Koropitzer et al (5,694,323) as described herein. Also as described the limitations of the claim do not distinguish the claimed apparatus from the prior art.

Thus the structural limitations of claim 56, including an intelligence module, a mapping module, a storage module and a communication module are disclosed in Koropitzer et al (5,694,323) as described herein. Also as described the limitations of the claim do not distinguish the claimed apparatus from the prior art.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3629

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 14-18, 20-22, 26, 56, 59–65, 67-68-69 are rejected under 35

U.S.C. 102(b) as being anticipated by Koropitzer et al (5,694,323).

As per Claim 14.

Koropitzer et al ('323) discloses:

a data collector receiving collected data related to a destination facility, the collected data being associated with a data type, see column 1, lines 1-15;

an advisory module receiving the collected data from the data collector, generating advisory information relating the collected data to an advisory rule corresponding to the data type and presenting advisory information to a field service provider, see figure 6 (600).

As per Claim 15.

Koropitzer et al ('323) further discloses the data collector receives data associated with utility devices at the destination facility, see column 4, lines 1-44.

As per Claim 16.

Koropitzer et al ('323) further discloses data type includes account data associated with a service being provided by the field service provider at the destination facility, see figures 6-7.

As per Claim 17.

Koropitzer et al ('323) further discloses the data collector receives data associated with a utility device and the collected data is data type from the group of device data, business data and census data, see column 4, lines 1–44.

As per Claim 18.

Koropitzer et al ('323) further discloses the advisory information is in the form of a script in a format based on the network device through which the field service provider is connected to the advisory module, see figures 6-7.

As per Claim 20

Koropitzer et al ('323) further discloses the script is in visual format, see figures 6-7.

As per Claim 21

Koropitzer et al ('323) further discloses the script is in textual format, see figures 6-7.

Art Unit: 3629

As per Claim 22

Koropitzer et al ('323) further discloses:

an intelligence module retrieving the stored data from the database and generating a data conclusion relating to the retrieved data to an advisory rule corresponding to a data type, see column 34 lines 12–18;

a mapping module mapping the data conclusion to advisory information, see figure 6.

As per Claim 26.

Koropitzer et al ('323) further discloses:

a registration/communication module granting the user access to the network advisory system and providing advisory information to the user, see figure 16.

As per Claim 56.

Koropitzer et al ('323) discloses:

an intelligence module retrieving stored data and generating a plurality of data conclusions relating to stored data to advisory rules, see figure 6 (600);

a mapping module mapping each of the generated data conclusions to an advisory information data structure, see figure 3 (302);

a storage module storing each of the advisory information data structures mapped to a generated data conclusion in association with the destination facility identifier, see figure 3 (307);

a communication interface operable to communicate with users over a communication network and receiving, in a request by a first user to access the network advisory, a provider identification code associated with the first user, the communication interface determining that the first user is authorized to access advisory information data structures associated with the first destination facility based on a mapping of the provider identification code to the destination facility identifier and consequently transmitting the advisory information data structures associated with the first destination facility to a first network device for presentation to a first user, see figure 3 (303).

As per Claims 59..

Koropitzer et al ('323) further discloses the first user is authorized to access advisory information data structures associated with a plurality of destination facilities each being identified by a destination facility identifier, see figures 6 and 16.

As per Claims 60.

Koropitzer et al ('323) further discloses the first user is authorized to access advisory information data structures associated with a plurality of destination facility identifier, see figures 6 and 16.

As per Claims 61.

Koropitzer et al ('323) further discloses the storage module comprises a plurality of customer account records, see figure 17.

As per Claims 62

Koropitzer et al ('323) further discloses a customer account record comprises a device data-type operable for storing, see figure 6 and 17 and account data type record operable for storing advisory information, see figure 16 and 17.

As per Claims 63.

Koropitzer et al ('323) further discloses at least one account data-type record is a business data-type record operable for storing advisory information data structures derived from business data associated with the customer account, see figure 17.

As per Claims 64.

Koropitzer et al ('323) further discloses at least one account data type record is a census data-type record operable for storing advisory information data structures derived from census data associated with the customer account, see figure 17.

As per Claims 65.

Koropitzer et al ('323) further discloses the data structures in the form of a script, see figure 6.

As per Claims 67

Koropitzer et al ('323) further discloses the script is an audio/visual format, see figure 6.

As per Claims 68

Koropitzer et al ('323) further discloses the script is in a textual form, see figure 6.

As per Claims 69

Koropitzer et al ('323) further discloses a land based network, see column 13, lines 36-41.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3629

4. Claims 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koropitzer et al (5,694,323) in view of Durston et al (4,707,848).

As per Claims 57.

Koropitzer et al ('323) does not specifically disclose transmitting advisory information to the field service provider as the field service provider is in transit between a first destination facility and a second destination facility.

Durston et al ('848) teaches providing off-duty communications with a central office without technician intervention, which is seen to be between a first destination facility and a second destination facility, see abstract, for the benefit of allowing the field service provider to go directly to the next destination without checking back in to the headquarters for new assignments.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to transmit information to the field service provider between a first destination and a second destination as taught by Durston et al ('848) for the benefit of allowing the field service provider to go directly to the next destination without checking back in to the headquarters for new assignments.

5. Claims 23-25, 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koropitzer et al ('323) in view of Wakefield ('561).

As per Claim 23.

Koropitzer et al ('323) does not disclose a wireless network.

Wakefield ('561) teaches transmitting advisory information to the field service provider via the wireless interface module, see figure 1, column 6, lines 14-49 for the benefit of enabling a technician to analyze the error code and take necessary steps to eliminate the error code.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to transmit the advisory data wirelessly for the benefit of enabling a technician to analyze the error code and take necessary steps to eliminate the error code.

As per Claim 24.

Koropitzer et al ('323) does not disclose a wireless telephone.

Wakefield ('561) teaches transmitting advisory information to the field service provider via the wireless interface module, see figure 1, column 6, lines 14-49 for the benefit of enabling a technician to analyze the error code and take necessary steps to eliminate the error code.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to transmit the advisory data wirelessly for the benefit of enabling a technician to analyze the error code and take necessary steps to eliminate the error code.

Art Unit: 3629

As per Claim 25.

Koropitzer et al ('323) does not disclose a wireless computing device.

Wakefield ('561) teaches transmitting advisory information to the field service provider via the wireless interface module, see figure 1, column 6, lines 14-49 for the benefit of enabling a technician to analyze the error code and take necessary steps to eliminate the error code.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to transmit the advisory data wirelessly for the benefit of enabling a technician to analyze the error code and take necessary steps to eliminate the error code.

As per Claim 58.

Koropitzer et al ('323) does not disclose a wireless network

Wakefield ('561) teaches transmitting advisory information to the field service provider via the wireless interface module, see figure 1, column 6, lines 14-49 for the benefit of enabling a technician to analyze the error code and take necessary steps to eliminate the error code.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to transmit the advisory data wirelessly for the benefit of enabling a technician to analyze the error code and take necessary steps to eliminate the error code.

6. Claims 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koropitzer et al ('323) in view of Ziegra et al (5,619,183).

As per Claims 66.

Koropitzer et al ('323) does not disclose the advisory is audio.

Ziegra et al ('183) teaches text audio and video links for the operator to review, see column 8, lines 32-45 for the benefit of offering the technician information in multiple formats.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to send an audio advisory as taught by Ziegra et al ('183) in the invention of Koropitzer et al ('323) for the benefit of offering the technician information in multiple formats.

### ***Allowable Subject Matter***

7. Claims 1-13, 43-55 are allowed.

8. The following is an examiner's statement of reasons for allowance:

As per Claims 1 and 43.



Art Unit: 3629

The prior art of record, specifically Wakefield II in view of Durston et al or Ziegra et al does not disclose:

receiving a request from a specific field service provider for presentation of specific advisory information, the request comprising a provider identification code associated with the specific field service provider; and

in response to receipt of the request retrieving the specific advisory information from the storage module based on the provider identification code.

The claims that depend from the above are allowed for the same reasons.

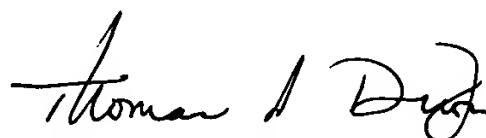
.Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas A. Dixon  
Primary Examiner  
Art Unit 3629

August 04